

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

EXXON MOBIL CORPORATION	§	CIVIL ACTION NO. _____
	§	
PLAINTIFF,	§	
V.	§	JUDGE _____
	§	
AET INC. LIMITED AND TEEKAY CHARTERING LTD, <i>in personam</i>, M/T EAGLE KLANG, <i>in rem</i>	§	MAGISTRATE _____
	§	
DEFENDANTS.	§	IN ADMIRALTY

VERIFIED COMPLAINT

NOW INTO COURT, through undersigned counsel, comes Plaintiff, Exxon Mobil Corporation (“ExxonMobil” or “Plaintiff”), who submits this Verified Complaint and avers as follows:

THE PARTIES

I.

Made Plaintiff herein is Exxon Mobil Corporation, a New Jersey corporation with its principal place of business in Irving, Texas. At all times relevant hereto, Exxon Mobil Corporation was authorized to do and was doing business in the State of Texas.

II.

Made Defendants herein are:

(A) AET Inc. Limited (“AET”), a foreign corporation with its principal place of business in the State of Texas. At all times relevant hereto, AET was authorized to do and was doing business in the State of Texas. AET can be served through its registered agent, C.T. Corporation System, located at 350 North St. Paul Street, Dallas, Texas 75201. In the

alternative, pursuant to the Texas Long-Arm Statute, AET may be served through the Texas Secretary of State;

(B) Teekay Chartering Ltd. (“Teekay”), a foreign business entity based in the Marshall Islands with its principal place of business in the State of Texas. At all times relevant hereto, Teekay was authorized to do and was doing business in the State of Texas. Teekay can be served through its registered agent, Masa Mirkovic, at 801 Travis Street, Suite 1950, Houston, Texas 77002. In the alternative, pursuant to the Texas Long-Arm Statute, Teekay may be served through the Texas Secretary of State; and

(C) *M/T Eagle Klang* and her engines, hull, tackle, apparel, furniture, etc., *in rem*, (the “Vessel”), upon information and belief, a documented tanker vessel registered under the flag of Singapore bearing IMO No. 9417892. The *M/T Eagle Klang* is within the district or will be within the district while the action is pending.

JURISDICTION AND VENUE

III.

This is an admiralty and maritime claim within the jurisdiction of the United States and this Honorable Court pursuant to Article III, Section 2 of the United States Constitution; 28 U.S.C. § 1333; and within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure, Rule C of the Supplemental Rules of Certain Admiralty and Maritime Claims, and the existence of a preferred maritime lien arising under 46 U.S.C. § 31301(5)(B).

IV.

This Court has personal jurisdiction over Defendants AET, Teekay, and the Vessel (collectively “Defendants”) because they engaged in business in Texas by soliciting business from and contracting with Exxon in Texas. Further, the contract at issue in this dispute was performed

and was to be performed, in part, in Texas. In addition, a substantial part of the events or omissions giving rise to the claim occurred in Texas.

V.

Venue is proper in this district pursuant to 28 U.S.C. §1391(b) because a substantial part of the events or omissions giving rise to the claim occurred within the Southern District of Texas and AET and Teekay have their principal places of business in this district.

BACKGROUND

VI.

At all times relevant hereto, ExxonMobil owned the subject terminal, which is located in Baytown, Texas and within the jurisdiction of this Court. On or about September 27, 2018 at approximately 1300 hours, the tanker *M/T Eagle Klang* (“Vessel”), owned and operated by AET and chartered by Teekay, was berthing at Dock 5 Berth 5 when the Vessel allided with the dock resulting in significant damage totaling not less than \$823,291.58 in addition to approximately \$90,000 in demurrage costs.

VII.

Nothing Plaintiff did and/or did not do caused or contributed to the damages to its property. Only the actions and/or inactions on the part of Defendants caused the harm suffered by Plaintiff.

VIII.

Plaintiff now files this action for the damages to its property.

CAUSES OF ACTION

IX.

At the time of the incident on September 27, 2018, Defendants were negligent as owners, managers, operators, and/or charterers of the Vessel. Defendants had a duty to exercise ordinary

care and operate the Vessel reasonably and prudently. Defendants breached that duty in one or more of the following ways:

- a. The Vessel was not manned with a competent captain and/or crew;
- b. The Vessel, her master, and her crew failed to keep a proper lookout;
- c. The Vessel, her master, and her crew failed to properly moor the Vessel;
- d. The Vessel's captain and/or crew were not properly trained;
- e. The Vessel's captain and/or crew were not properly supervised;
- f. Defendants AET and Teekay's policies and procedures were below standard and/or not followed by the Vessel's captain and/or crew;
- g. Defendants AET and Teekay failed to properly formulate safety policies;
- h. The Vessel lacked proper manuals and/or instructions; and
- i. Other negligent acts and/or omissions to be shown/proven at trial.

X.

As a direct and proximate result of Defendants' negligence, and despite ExxonMobil's efforts to mitigate its damages, ExxonMobil suffered substantial damages to Dock 5 Berth 5 at its Baytown facility, and incurred substantial costs in conducting the reasonable and necessary repairs thereto.

XI.

Because the Vessel allided with a stationary object, specifically Exxon's Dock 5 Berth 5, the Vessel is presumed to be negligent. *See The Oregon*, 158 U.S. 186 (1895); *Bunge Corp. v. M/V Furness Bridge*, 558 F.2d 790 (5th Cir. 1977).

XII.

Under United States federal maritime law, Plaintiff has a maritime lien against the Vessel and her engines, hull, tackle, apparel, furniture, etc. for the amount needed to repair ExxonMobil's

damaged dock, as well as all attendant damages directly or indirectly attributable to the allision described above, including pre- and post-judgment interest, attorney's fees, and costs.

DAMAGES

XIII.

As a direct and proximate result of Defendants' negligence, ExxonMobil has sustained actual damages in an amount not less than Eight Hundred Twenty-Three Thousand Two Hundred Ninety-One Dollars and Fifty-Eight Cents (\$823,291.58) in addition to approximately \$90,000 in demurrage costs. In addition to these damages, Exxon also seeks recovery from the Defendants of all pre- and post-judgment interest and costs of court.

PRAYER

WHEREFORE, Plaintiff Exxon Mobil Corporation prays:

1. That process and due form of law issue against Defendants AET and Teekay, being the persons, firms, or corporations who were the owners, managers, operators, or charterers of the Vessel *M/T Eagle Klang* at the times involved, citing them to appear and answer all and singular matters aforesaid;
2. That the issuance of arrest of the Vessel be withheld pursuant to the Letter of Undertaking executed between Exxon and the owner of the vessel *M/T Eagle Klang* on March 20, 2020, and that pursuant to said Letter of Undertaking all those claiming an interest in the Vessel *M/T Eagle*

Klang, and her engines, hull, tackle, apparel, furniture, etc., *in rem*, be required to file a claim to the said Vessel and answer, all and singular, the allegations of this Verified Complaint;

3. That this Court render judgment against Defendants, AET Inc. Ltd., *in personam*, Teekay Chartering Ltd., *in personam*, and the *M/T Eagle Klang*, *in rem*, for Plaintiff's damages, along with both pre- and post-judgment interest and costs of court; and

4. For all such other further relief to which Exxon may be entitled at law or in equity.

Respectfully submitted,

LISKOW & LEWIS, APLC

/s/ Michael A. Golemi (by permission JSM)

Michael A. Golemi

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**AET INC. LIMITED AND TEEKAY
CHARTERING LTD, *in personam*,
M/T EAGLE KLANG, *in rem***

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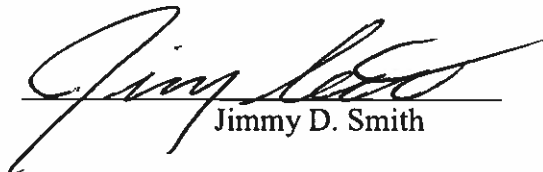
MAGISTRATE _____

IN ADMIRALTY


VERIFICATION

HARRIS COUNTY
STATE OF TEXAS

Before me, the undersigned Notary Public, this date personally came and appeared Jimmy D. Smith, who upon first being duly sworn did depose and state that he is the Process Mechanical Coordinator at Exxon Mobil Corporation's Baytown Refinery; that he is duly authorized to execute this affidavit; that he has read the foregoing Verified Complaint; that said Verified Complaint was prepared with the assistance and advice of counsel, upon which he has relied; and that said statements are complete in accordance with the limitations stated therein to the best of his present knowledge, information, and belief.


Jimmy D. Smith

Sworn to and subscribed before me, Notary Public, this 20 day of August, 2020.


Notary Public

